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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,536	02/18/2004	Floyd Backes	160-026	2456

34845 7590 03/27/2006

STEUBING MCGUINNESS & MANARAS LLP  
125 NAGOG PARK  
ACTON, MA 01720

EXAMINER

PEACHES, RANDY

ART UNIT PAPER NUMBER

2617

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/781,536

Applicant(s)

BACKES ET AL.

Examiner

Randy Peaches

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/28/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

6/24/05  
12/4/04

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. ***Claims 1-5*** are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al (U.S. Patent Number 6,690,944 B1).

Regarding ***claim 1***, Lee et al discloses a power control apparatus wherein a program product is capable of communicating in a wireless communications network via a radio frequency channel, the program product comprising a computer readable medium having embodied therein a computer program for storing data, the computer program comprising:

- logic for receiving a power control information (PC<sub>1,2,3...</sub>) , which reads on claimed "message," from a base station, which reads on claimed "access point," the said PC<sub>1,2,3...</sub> containing information about the said BS; See column 4 lines 64-67 and column 5 lines 1-10.
- logic for adjusting transmit power in response to the information in the PC<sub>1,2,3...</sub>.

Regarding **claim 2**, according to **claim 1**, Lee et al, continues to disclose wherein the information pertains to the adjusted power level of the said BS, which reads on claimed "how far the access point's power has been reduced." See column 6 lines 27-53.

Regarding **claim 3**, according to **claim 2**, Lee et al, continues to disclose wherein the logic for adjusting transmit power sets mobile station transmit power to the said PC<sub>1,2,3...</sub> received in the message. See column 7 lines 16-29.

Regarding **claim 4**, according to **claim 3**, Lee et al, continues to disclose transmitting messages to other devices in the wireless communications network, the messages including a said PC<sub>1,2,3...</sub> (see column 8 lines 11-13) indicative of the amount by which the said MS transmit power has been adjusted. See column 8 lines 5-27.

Regarding **claim 5**, Lee et al. discloses a power control apparatus wherein a program product is capable of communicating in a wireless communications network via a radio frequency channel, the program product comprising a computer readable medium having embodied therein a computer program for storing data, the computer program comprising:

- logic for receiving a message from an access point, the message containing a transmit power control information (PC<sub>1,2,3...</sub>) that indicates how far the access point's power has been reduced. See column 8 lines 5-20.

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- logic for adjusting transmit power by setting the station's transmit power to the power control information ( $PC_{1,2,3...}$ ) received in the message. See column 7 lines 16-29; and
- logic for transmitting messages to other devices in the wireless communications network, the messages including a power control information ( $PC_{1,2,3...}$ ) indicative of the amount by which the station's transmit power has been adjusted. See column 8 lines 5-27.

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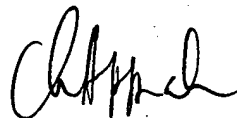
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy Peaches whose telephone number is (571) 272-7914. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Randy Peaches  
March 20, 2006

  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**